IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1364 OF 2007
(For Leave to Appeal)
IN
CRIMINAL APPEAL NO. OF 2007

The Union of India
(Through Assistant Commr.
of Customs, Marine &
Preventive, Bombay) ..Applicant

Vs.

Mohanlal Joharmal Jain ..Respondent

Ms. Usha Kejriwal for applicant.

CORAM: B.H. MARLAPALLE, J.

Date : July 06, 2007.

P.C.:

1. Heard Ms. Kejriwal the learned standing counsel for the Union of India. The respondent - original accused was tried in C.C. No. 106/CW/2003 (483/CW/2000) (271/CW/94) and was acquitted by the learned Additional Chief Metropolitan Magistrate's 3rd Court, Esplanade on 28/5/2006 from the offence punishable under Section 135(1)(b) of the Customs Act

and Under Section 85(1)(ii) of Gold Control Act, 1968.

2. As per the prosecution case on 1/3/1990 the accused was apprehended on an information having received and gold biscuits were recovered from him. In support of its case, the prosecution examined Shri Mohd. Nazruddin Rafiuddin (PW 1) who was a member of the raiding party, Amit Anikhindi, Inspector (PW 2) and attached to prosecution cell and Bhaskar Poona, Inspector (PW 3). The evidence of PW 3 was limited to the extent that he had received summons to be served on the panchas of panchanama Exh.P.1. The panchas were not examined before the trial court. PW 2 Amit Anikhindi was a witness only to the limited extent of sanction order as well as authorisation of filing the criminal case. The case of the prosecution, therefore, squarely rested on the depositions of PW 1 and in his cross-examination, the prosecution case was totally demolished.

3. The detail reasoning set out by the trial court cannot be termed as erroneous or perverse and, therefore, there is no case made out for

reconsideration of the said reasonings by this court in an appeal.

4. Hence, the leave to appeal under Section 378 (3) of Cr.P.C. is hereby rejected.

(B.H. Marlapalle,J.)